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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,056

05/02/2005

Ulrik Skovgaard Rasmussen

GRP-0083

8251

23413 7590 07/09/2009
CANTOR COLBURN, LLP
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EXAMINER

SMITH, CHAIM A

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

07/09/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

Office Action Summary

Application No.

10/507,056

Applicant(s)RASMUSSEN, ULRIK
SKOVGAARD**Examiner**

CHAIM SMITH

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-40 is/are pending in the application.
- 4a) Of the above claim(s) 1-17, 19-26 and 35-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-17 and 19-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>09/08/2004, 11/07/2005, 11/19/2007, 01/29/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: on page 3 the number 3 appears in the third line of paragraph [008]. On page 6 in paragraph [016] a “)” appears singly and in the last line of the paragraph the number 5 appears. On page 11 in paragraph [033] in line 4 of the paragraph it reads “is however be limited. On page 15 it is unclear what is meant by paragraphs [049] and [050]. Beginning with paragraph [044] and continuing until paragraph [058] numerous reference signs are used with out reference to any figures. On page 18 paragraph [066] ends with the recitation “and where”. It is unclear to the examiner what this means. On page 29 paragraph [029] refers to fig. 3 but appears to describe the box of fig. 2. Further in paragraph [029] the numeral 5 appears in the last line of the paragraph. Paragraph [0103] recites that “the package of fig. 3 comprises an opening 67” however fig. 3 does not show said opening. On page 30 paragraph [107], related to fig. 3, indicates "the confectionary in the box" while previous descriptions of the embodiment of fig. 3 in paragraph [0104] indicate the package would consist of a confectionary enclosed in wrappings, not a box.

2. Appropriate correction is required.

Claim Objections

3. Claim 34 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to the other claims in the alternative only. See

Art Unit: 1794

MPEP § 608.01(n). It is unclear if claim 34 is meant to depend from claim 27 or claim 33.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 27-31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Arai JP 10-236519.

6. Regarding claims 27 – 31 and 33, Arai discloses a confectionary packaging comprising at least one pocket for receipt of confectionery wherein there is one breakable seal and at least two sections forming a part of further releasable sealing, there is at least one releasable adhesive (peeled adapted for fastening at least two sections in a folded position around at least one pocket in a closed position, at least one breakable sealing would be releasable, at least one breakable sealing would be non releasable, and at least first and second pocket sections are folded forming a pocket. Further the two sections would comprise at least one surface adapted for advertisement which would be by at least one of the sections of the packaging when the package would be in a folded position and said one surface would be visible when the package is in an unfolded position ('519; English abstract, Drawing 1 - 4).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arai JP 10-236519 in view of Focke4,505,385.

10. Arai is relied upon with respect to the rejection of claim 27 as set forth above.

11. Regarding claim 32, Arai is silent regarding the stiffing of at least opening by extending a pocket section beyond a folding line formed by said pocket section. Focke however discloses a packaging wherein at least one opening is formed such that it is mechanically stiffened by extending said at least one pocket section beyond the folding line. Focke further discloses that it is well known to use this type of package to keep the contents fresh over a prolonged period of time ('385; col. 1, ln 26 – 30 and fig. 3 and 4). It therefore would have been obvious to one of ordinary skill in the art at the time of the invention to have used a pouch with an extended pocket fold line in the packaging of

Art Unit: 1794

Arai as disclosed by Focke. One of ordinary skill would have been motivated to do so in order to maintain freshness of the contents over a prolonged period of time.

12. Regarding claim 34, Arai in view of Focke discloses that the packaging would be comprised of a polymer (plastic) ('385; col. 1, ln 8).

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHAIM SMITH whose telephone number is (571)270-7369. The examiner can normally be reached on Monday-Thursday 7:30-5:00.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. S./

Chaim Smith

Examiner, Art Unit 1794

29 June 2009

/KEITH D. HENDRICKS/

Supervisory Patent Examiner, Art Unit 1794